

1 AN ACT relating to the disclosure of public retirement information.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 61.661, as amended by Section 1. of Senate Bill 3 in the 2017
4 Regular Session, is further amended to read as follows:

5 (1) (a) Each current, former, or retired member's account shall be administered in a
6 confidential manner, and specific data regarding a current, former, or retired
7 member shall not be released for publication, except that:

8 1. The member or recipient may authorize the release of his or her account
9 information;

10 2. Kentucky Retirement Systems may release account information to the
11 employer or to other state and federal agencies as it deems necessary or
12 in response to a lawful subpoena or order issued by a court of law; or

13 3. a. Upon request by any person, the systems shall release the
14 following information from the accounts of any member or retired
15 member of the Kentucky Employees Retirement System, the
16 County Employees Retirement System, or the State Police
17 Retirement System, if the member or retired member was a current
18 or former officeholder in the Kentucky General Assembly ***or if the***
19 ***member or retired member is receiving combined annualized***
20 ***retirement benefits from the state-administered retirement***
21 ***systems exceeding twice Kentucky's annualized per capita***
22 ***personal income as determined by the federal Bureau of***
23 ***Economic Analysis for the most recent calendar year:***

24 i. The first and last name of the member or retired member;

25 ii. The system or systems in which the member has an account
26 or from which the retired member is receiving a monthly
27 retirement allowance;

- 1 iii. The status of the member or retired member, including but
2 not limited to whether he or she is a contributing member, a
3 member who is not currently contributing to the systems but
4 has not retired, a retired member, or a retired member who
5 has returned to work following retirement with an agency
6 participating in the systems;
- 7 iv. If the individual is a retired member, the monthly retirement
8 allowance that he or she was receiving at the end of the most
9 recently completed fiscal year;
- 10 v. If the individual is a member who has not yet retired, the
11 estimated monthly retirement allowance that he or she is
12 eligible to receive at his or her normal retirement date based
13 upon his or her service credit, final compensation, and
14 accumulated account balance at the end of the most recently
15 completed fiscal year; and
- 16 vi. The current employer or last participating employer of the
17 member or retired member, if applicable.
- 18 b. No information shall be disclosed under this subparagraph from an
19 account that is paying benefits to a beneficiary due to the death of
20 a member or retired member.
- 21 (b) A current, former, or retired member's account shall be exempt from the
22 provisions of KRS 171.410 to 171.990.
- 23 (c) The release of information under paragraph (a)3. of this subsection shall not
24 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- 25 (d) Notwithstanding the provisions of this subsection, Kentucky Retirement
26 Systems shall share any and all data necessary with the other state-
27 administered retirement systems in order to carry out the provisions of

1 Sections 1, 2, and 3 of this Act.

2 (e) The information required to be released under paragraph (a)3. of this
3 subsection shall also be provided in a searchable format on the Web site
4 established by the executive branch to inform the public about executive
5 branch agency expenditures as provided by Section 4 of this Act.

6 (f) For purposes of this subsection, "state-administered retirement systems"
7 includes the Kentucky Employees Retirement System, the County
8 Employees Retirement System, the State Police Retirement System, the
9 Kentucky Teachers' Retirement System, the Legislators' Retirement Plan,
10 and the Judicial Retirement Plan.

11 (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement
12 Systems, requiring production of any specific data regarding a current, former,
13 or retired member, it is sufficient if the employee of the Kentucky Retirement
14 Systems charged with the responsibility of being custodian of the original
15 delivers within five (5) working days, by certified mail or by personal
16 delivery, legible and durable copies of records, certified by the employee, or
17 an affidavit stating the information required by the subpoena to the person
18 specified in the subpoena. The production of documents or an affidavit shall
19 be in lieu of any personal testimony of any employee of the Kentucky
20 Retirement Systems unless, after the production of documents or affidavit, a
21 separate subpoena is served upon the systems specifically directing the
22 testimony of an employee of the systems. When a subpoena is served on any
23 employee of the systems requiring the employee to give deposition for any
24 purpose, in the absence of a court order requiring the deposition of a specific
25 employee, the systems may designate an employee to be deposed upon the
26 matter referred to in the subpoena.

27 (b) The certification required by this subsection shall be signed before a notary

1 public by the employee and shall include the full name of the member or
2 recipient, the member's or recipient's Social Security number, and a legend
3 substantially to the following effect: "The records are true and complete
4 reproductions of the original or microfiched records which are housed in the
5 retirement systems office. This certification is given in lieu of his or her
6 personal appearance."

7 (c) When an affidavit or copies of records are personally delivered, a receipt shall
8 be presented to the person receiving the records for his signature and shall be
9 immediately signed and returned to the person delivering the records. When
10 an affidavit or copies of records are sent via certified mail, the receipt used by
11 the postal authorities shall be sufficient to prove delivery and receipt of the
12 affidavit or copies of records.

13 (d) When the affidavit or copies of records are delivered to a party for use in
14 deposition, they shall, after termination of the deposition, be delivered
15 personally or by certified mail to the clerk of the court or other body before
16 which the action or proceeding is pending. It shall be the responsibility of the
17 party or attorney to transmit the receipt obtained to the employee of the
18 Kentucky Retirement Systems charged with responsibility of being custodian
19 of the original. Upon issuance of a final order terminating the case and after
20 the normal retention period for court records expires, the affidavit or copies of
21 records shall be permanently disposed of by the clerk in a manner that protects
22 the confidentiality of the information contained therein.

23 (e) Records of the Kentucky Retirement Systems that are susceptible to
24 photostatic reproduction may be proved as to foundation, identity, and
25 authenticity without any preliminary testimony, by use of legible and durable
26 copies, certified in accordance with the provisions of this subsection.

27 ➔Section 2. KRS 161.585, as amended by Section 2. of Senate Bill 3 in the 2017

1 Regular Session, is further amended to read as follows:

2 (1) Each member's or annuitant's account shall be administered in a confidential
3 manner, and specific data regarding a member or annuitant shall not be released for
4 publication, except that:

5 (a) The member or annuitant may authorize the release of his or her account
6 information;

7 (b) The board of trustees may release member or annuitant account information to
8 the employer or to other state and federal agencies as it deems necessary or in
9 response to a lawful subpoena or order issued by a court of law; or

10 (c) 1. Upon request by any person, the system shall release the following
11 information from the accounts of any member or annuitant of the
12 Kentucky Teachers' Retirement System, if the member or annuitant was
13 a current or former officeholder in the Kentucky General Assembly *or if*
14 *the member or annuitant is receiving combined annualized retirement*
15 *benefits from the state-administered retirement systems exceeding*
16 *twice Kentucky's annualized per capita personal income as determined*
17 *by the federal Bureau of Economic Analysis for the most recent*
18 *calendar year:*

19 a. The first and last name of the member or annuitant;

20 b. The status of the member or annuitant, including but not limited to
21 whether he or she is a contributing member, a member who is not
22 contributing but has not retired, a retiree receiving a monthly
23 retirement allowance, or a retiree who has returned to work
24 following retirement with an agency participating in the system;

25 c. If the individual is an annuitant, the monthly retirement allowance
26 that he or she was receiving at the end of the most recently
27 completed fiscal year;

1 d. If the individual is a member who has not yet retired, the estimated
2 monthly retirement allowance that he or she is eligible to receive
3 on the first date he or she would be eligible for an unreduced
4 retirement allowance, using his or her service credit and final
5 average salary at the end of the most recently completed fiscal
6 year; and

7 e. The current or last participating employer of the member or
8 annuitant, if applicable.

9 2. No information shall be disclosed under this paragraph from an account
10 that is paying benefits to a beneficiary due to the death of a member or
11 annuitant.

12 (d) Notwithstanding the provisions of this subsection, Kentucky Teachers'
13 Retirement System shall share any and all data necessary with the other
14 state-administered retirement systems in order to carry out the provisions of
15 Sections 1, 2, and 3 of this Act.

16 (e) The information required to be released under paragraph (c) of this
17 subsection shall also be provided in a searchable format on the Web site
18 established by the executive branch to inform the public about executive
19 branch agency expenditures as provided by Section 4 of this Act.

20 (2) The release of information under subsection (1)(c) of this section shall not
21 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

22 (3) Medical records which are included in a member's or annuitant's file maintained by
23 the Teachers' Retirement System are confidential and shall not be released unless
24 authorized by the member or annuitant in writing or as otherwise provided by law or
25 in response to a lawful subpoena or order issued by a court of law.

26 (4) (a) When a subpoena is served upon any employee of the Kentucky Teachers'
27 Retirement System requiring the production of any data, information, or

1 records, it is sufficient if the employee of the Kentucky Teachers' Retirement
2 System charged with the responsibility of being custodian of the original, or
3 his or her designated staff, delivers within five (5) working days by certified
4 mail or by personal delivery to the person specified in the subpoena either of
5 the following:

- 6 1. Legible and durable copies of records certified by the employee or
7 designated staff; or
- 8 2. An affidavit stating the information required by the subpoena.

9 (b) The production of records or an affidavit shall be in lieu of any personal
10 testimony of any employee of the Kentucky Teachers' Retirement System
11 unless, after the production of records or an affidavit, a separate subpoena is
12 served upon the retirement system specifically directing the testimony of an
13 employee of the retirement system. When a subpoena is served on any
14 employee of the retirement system requiring the employee to give testimony
15 or produce records for any purpose, in the absence of a court order requiring
16 the testimony of or production of records by a specific employee, the system
17 may designate an employee to give testimony or produce records upon the
18 matter referred to in the subpoena. The board of trustees may promulgate an
19 administrative regulation for the recovery of reasonable travel and
20 administrative expenses for those occasions when an employee of the
21 retirement system is required to travel from his or her home or office to
22 provide testimony or records. Recoverable expenses may include the wages,
23 salary, and overtime paid to the employee by the retirement system for the
24 period of time that the employee is away from the office. The cost of these
25 expenses shall be borne by the party issuing the subpoena compelling the
26 employee's travel. The board of trustees may also promulgate an
27 administrative regulation establishing a reasonable fee for the copying,

1 compiling, and mailing of requested records.

2 (c) The certification required by this subsection shall be signed before a notary
3 public by the employee and shall include the full name of the member or
4 annuitant, the member or annuitant identification number assigned to the
5 member or annuitant by the retirement system, and a legend substantially to
6 the following effect: "The records are true and complete reproductions of the
7 original, microfiche, or electronically stored records which are housed in the
8 retirement system's office. This certification is given in lieu of the
9 undersigned's personal appearance."

10 (d) When an affidavit or copies of records are personally delivered, a receipt shall
11 be presented to the person receiving the records for his or her signature and
12 shall be immediately signed and returned to the person delivering the records.
13 When an affidavit or copies of records are sent via certified mail, the receipt
14 used by the postal authorities shall be sufficient to prove receipt of the
15 affidavit or copies of records.

16 (e) When the affidavit or copies of records are delivered to a party for use in
17 deposition they shall, after termination of the deposition, be delivered
18 personally or by certified mail to the clerk of the court or other body before
19 which the action or proceeding is pending.

20 (f) Upon completion of delivery by the retirement system of copies of records by
21 their deposit in the mail or by their personal delivery to the requesting party,
22 the retirement system shall cease to have any responsibility or liability for the
23 records and their continued maintenance in a confidential manner.

24 (g) Records of the Kentucky Teachers' Retirement System that are susceptible to
25 reproduction may be proved as to foundation, identity, and authenticity
26 without preliminary testimony, by use of legible and durable copies, certified
27 in accordance with the provisions of this subsection.

1 (h) The provisions of this subsection shall not be construed to prohibit the
2 Kentucky Teachers' Retirement System from asserting any exemption,
3 exception, or relief provided under the Kentucky Rules of Civil Procedure or
4 other applicable law.

5 (5) For purposes of this section:~~[-]~~

6 (a) "Records" includes retirement estimates, affidavits, and other documents
7 prepared by the Kentucky Teachers' Retirement System in response to
8 information requested in a lawful subpoena or order issued by a court of law;
9 and

10 (b) "State-administered retirement systems" includes the Kentucky Employees
11 Retirement System, the County Employees Retirement System, the State
12 Police Retirement System, the Kentucky Teachers' Retirement System, the
13 Legislators' Retirement Plan, and the Judicial Retirement Plan.

14 ➔Section 3. KRS 21.540, as amended by Section 3. of Senate Bill 3 in the 2017
15 Regular Session, is further amended to read as follows:

16 (1) Except as provided in KRS 21.550, 21.560, and subsection (3) of this section, the
17 board of trustees of the Judicial Form Retirement System shall be charged with the
18 administration of that system and of KRS 21.350 to 21.510, and shall have all
19 powers necessary thereto, including the power to promulgate all reasonable
20 administrative regulations, pass upon questions of eligibility and disability, make
21 employments for services, and to contract for fiduciary liability insurance, and for
22 investment counseling, actuarial, auditing, and other professional services as
23 required without the limitations of KRS 45A.045. The administrative expenses shall
24 be paid out of an administrative account which shall be funded by transfers of the
25 necessary money, in appropriate ratio, from the funds provided for in KRS 21.550
26 and 21.560.

27 (2) (a) A qualified domestic relations order issued by a court or administrative

1 agency shall be honored by the Judicial Form Retirement System if the order
2 is in compliance with the requirements established by the retirement system.

3 (b) Except in cases involving child support payments, the Judicial Form
4 Retirement System may charge reasonable and necessary fees and expenses to
5 the participant and the alternate payee of a qualified domestic relations order
6 for the administration of the qualified domestic relations order by the
7 retirement system. All fees and expenses shall be established by
8 administrative regulations promulgated by the board of trustees of the
9 retirement system. The qualified domestic relations order shall specify
10 whether the fees and expenses provided by this subsection shall be paid:

- 11 1. Solely by the participant;
- 12 2. Solely by the alternate payee; or
- 13 3. Equally shared by the participant and alternate payee.

14 (c) For purposes of this subsection, a "qualified domestic relations order" shall
15 mean any judgment, decree, or order, including approval of a property
16 settlement agreement, that:

- 17 1. Is issued by a court or administrative agency; and
- 18 2. Relates to the provision of child support, alimony payments, or marital
19 property rights to a spouse, former spouse, child, or other dependent of a
20 member.

21 (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be
22 the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and
23 6.500 to 6.577 shall conform with federal statutes or regulations and meet the
24 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
25 regulations, and other published guidance, and the board shall have the authority to
26 promulgate administrative regulations, with retroactive effect if required under
27 federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement

1 Plan with federal statutes and regulations and to meet the qualification requirements
2 under 26 U.S.C. sec. 401(a).

3 (4) The Judicial Form Retirement System shall make available on a public Web site, a
4 listing of all system expenditures and a listing of each individual employed by the
5 systems along with the employee's salary or wages. The system may provide the
6 information through a Web site established by the executive or judicial branch to
7 inform the public about executive or judicial branch agency expenditures and public
8 employee salaries and wages. Nothing in this subsection shall require or compel the
9 Judicial Form Retirement System to disclose information specific to the account of
10 an individual member of the Legislators' Retirement Plan or the Judicial Retirement
11 Plan.

12 (5) No trustee or employee of the board shall:

13 (a) Have any interest, direct or indirect, in the gains or profits of any investment
14 or transaction made by the board, provided that the provisions of this
15 paragraph shall not prohibit a member or retiree of one (1) of the retirement
16 plans administered by the system from serving as a trustee;

17 (b) Directly or indirectly, for himself or herself or as an agent, use the assets of
18 the system, except to make current and necessary payments authorized by the
19 board;

20 (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed
21 from the board;

22 (d) Have a contract or agreement with the retirement system, individually or
23 through a business owned by the trustee or the employee;

24 (e) Use his or her official position with the retirement system to obtain a financial
25 gain or benefit or advantage for himself or herself or a family member;

26 (f) Use confidential information acquired during his or her tenure with the
27 systems to further his or her own economic interests or that of another person;

1 or

2 (g) Hold outside employment with, or accept compensation from, any person or
3 business with which he or she has involvement as part of his or her official
4 position with the system. The provisions of this paragraph shall not prohibit:

5 1. A trustee from serving as a judge or member of the General Assembly;

6 or

7 2. A trustee from serving on the board if the compensation is de minimus
8 and incidental to the trustee's outside employment. If the compensation
9 is more than de minimus, the trustee shall disclose the amount of the
10 compensation to the other trustees and recuse himself or herself from
11 any matters involving hiring or retaining a person or a business from
12 whom more than de minimus amounts are received by the trustee. For
13 purposes of this section, "de minimus" means an insignificant amount
14 that does not raise a reasonable question as to the trustee's objectivity.

15 (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to
16 the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement
17 Plan, including fees and commissions paid to an investment manager, private fund,
18 or company issuing securities, who manages systems assets, shall be used to pay
19 fees and commissions to unregulated placement agents. For purposes of this
20 subsection, "unregulated placement agent" means an individual or firm who solicits
21 investments on behalf of an investment manager, private fund, or company issuing
22 securities, who is prohibited by federal securities laws and regulations promulgated
23 thereunder from receiving compensation for soliciting a government agency.

24 (7) (a) 1. Upon request by any person, the Judicial Form Retirement System shall
25 release the following information from the accounts of any member or
26 retiree of the Legislators' Retirement Plan or the Judicial Retirement
27 Plan, if the member or retiree was a current or former officeholder in the

1 Kentucky General Assembly or if the member or retiree is receiving
2 combined annualized retirement benefits from the state-administered
3 retirement systems exceeding twice Kentucky's annualized per capita
4 personal income as determined by the federal Bureau of Economic
5 Analysis for the most recent calendar year:

- 6 a. The first and last name of the member or retiree;
- 7 b. The plan or plans in which the member has an account or from
8 which the retiree is receiving a monthly retirement allowance;
- 9 c. The status of the member or retiree, including but not limited to
10 whether he or she is a contributing member, a member who is not
11 currently contributing to the plans but has not retired, or a retiree
12 drawing a monthly retirement allowance;
- 13 d. If the individual is a retiree, the monthly retirement allowance that
14 he or she was receiving at the end of the most recently completed
15 fiscal year; and
- 16 e. If the individual is a member who has not yet retired, the estimated
17 monthly retirement allowance that he or she is eligible to receive
18 on the first date he or she would be eligible for an unreduced
19 retirement allowance, using his or her service credit, final
20 compensation, and accumulated account balance at the end of the
21 most recently completed fiscal year.

- 22 2. No information shall be disclosed under this paragraph from an account
23 that is paying benefits to a beneficiary due to the death of a member or
24 retiree.

- 25 (b) The release of information under paragraph (a) of this subsection shall not
26 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

27 (c) Notwithstanding the provisions of this subsection, the Judicial Form

1 Retirement System shall share any and all data necessary with the other
2 state-administered retirement systems in order to carry out the provisions of
3 Sections 1, 2, and 3 of this Act.

4 (d) The information required to be released under paragraph (a) of this
5 subsection shall also be provided in a searchable format on the Web site
6 established by the executive branch to inform the public about executive
7 branch agency expenditures as provided by Section 4 of this Act.

8 (e) For purposes of this subsection, "state-administered retirement systems"
9 includes the Kentucky Employees Retirement System, the County
10 Employees Retirement System, the State Police Retirement System, the
11 Kentucky Teachers' Retirement System, the Legislators' Retirement Plan,
12 and the Judicial Retirement Plan.

13 ➔Section 4. KRS 42.032 is amended to read as follows:

14 (1) By January 1, 2012, the Finance and Administration Cabinet shall provide public
15 access to records relating to expenditures of the executive branch of state
16 government through display of the records on a Web site. The Web site shall
17 provide:

18 (a) Financial information of expenditures not exempt under the provisions of state
19 or federal law, including:

- 20 1. The payee name;
- 21 2. The category or type of the expenditure;
- 22 3. A description of the reason for the expenditure, if available;
- 23 4. The expenditure amount; and
- 24 5. A link to the financial document, if the document is electronically
- 25 available;

26 (b) A searchable format;

27 (c) Access to the current enacted Executive Branch Budget;~~[-and]~~

1 (d) A link to the public access Web site displays of the legislative and judicial
2 branches of state government, and of the public institutions of higher
3 education; and

4 (e) Access to the information required to be posted to the Web site in a
5 searchable format as provided by Sections 1, 2, and 3 of this Act.

6 (2) Information on the Web site shall be updated at least on a monthly basis. However,
7 information on the Web site which is part of, or contained in, an electronic
8 accounting system utilized by all branches of state government, such as the
9 Enhanced Management Administrative Reporting System (EMARS), shall be
10 updated on a weekly basis.

11 (3) The cabinet shall maintain exclusive control and be considered the sole custodian of
12 all information and records generated by and through activity of the executive
13 branch of government, notwithstanding the situs of the information and the records
14 in another branch of government, and disclosure thereof shall only be by the cabinet
15 in accordance with applicable law.

16 (4) In order to reduce Web site development costs and enhance public access and use of
17 records viewed through Web sites as provided by this section and KRS 7.505 and
18 26A.260, each branch of state government shall freely share with the other branches
19 of state government the software, software developments, and all applications, data,
20 and information within its control used for Web site design, appearance, content,
21 and operation in compliance with, or in furtherance of, the purposes contemplated
22 by this section and KRS 7.505 and 26A.260.